

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS AND INTERFERENCES

Ex parte ERIC C. ANDERSON

Application 09/213,131



ORDER RETURNING UNDOCKETED APPEAL TO EXAMINER

This application was electronically received at the Board of Patent Appeals and Interferences on January 17, 2007. A review of the application has revealed that the application is not ready for docketing as an appeal. Accordingly, the application is herewith being returned to the examiner. The matter requiring attention prior to docketing is identified below.

The Examiner's Answer mailed July 31, 2006 is defective because in paragraph 8 it is stated, "no evidence is relied upon by the examiner." However, prior art was applied in the rejections on appeal. The Manual of Patent Examining Procedure, (MPEP), in § 1207.02 states:

(8) *Evidence Relied Upon.* A listing of the Evidence Relied On (e.g., patents, publications, admitted prior art), and, in the case of nonpatent references, the relevant page or pages.

Appropriate correction is required.

Accordingly, it is

ORDERED that the application is returned to the Examiner to fill out a PTOL-90, properly filling out or including the section "Evidence relied upon" to make the Examiner's Answer compliant and mail said PTOL-90 to Appellant and for such further action as may be appropriate.

BOARD OF PATENT APPEALS
AND INTERFERENCES

By: *Patrick J. Nolan*
PATRICK J. NOLAN
Deputy Chief Appeals Administrator
(571) 272-9797

PJN/eld

CC: WITHROW & TERRANOVA, P.L.L.C.
100 REGENCY FOREST DRIVE
SUITE 160
CARY, NC 27518